

No.

6510

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United States
Circuit Court of Appeals
For the Ninth Circuit.

In the Matter of

ROUTT LUMBER COMPANY,
a corporation,

Bankrupt,

STANDARD PLANING MILL, a corporation,

Appellant,

vs.

PACIFIC COAST PAPER COMPANY, PACIFIC
PORTLAND CEMENT COMPANY, SLOSS &
BRITTAIN, and A. HOLM, Assignee of Redwood
Manufacturers Company, Wendling-Nathan Com-
pany and Sugar Pine Lumber Company, Ltd.,

Appellees.

Transcript of Record.

Upon Appeal from the United States District Court for the Southern
District of California, Northern Division.

FILED

NOV 27 1931

PAUL P. O'BRIEN,
CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italics* the two words between which the omission seems to occur.]

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Names and Addresses of Attorneys.

For Appellant Standard Planing Mill, a corporation:

LOUIS E. GOODMAN, Esq.,

HERMAN A. BACHRACK, Esq.,

Haas Building, Los Angeles, California.

Russ Building, San Francisco, California.

For Petitioners and Appellees:

HAYES & WREN, Esqs.,

WILLIAM T. DOYLE, Esq.,

Hobart Building, San Francisco, California.

United States of America, ss:

THE PRESIDENT OF THE UNITED STATES OF
AMERICA

To PACIFIC COAST PAPER COMPANY; PACIFIC
PORTLAND CEMENT COMPANY; SLOSS &
BRITTAIN; and A. HOLM as Trustee; and to
HAYES & WREN and to WILLIAM T. DOYLE,
Their Attorneys and Solicitors. GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be held at the City of San Francisco, in the State of California, on the 28th day of August, A. D. 1931, pursuant to an order allowing appeal filed on the 29th day of July, 1931 in the Clerk's Office of the Circuit Court of Appeals of the United States, in and for the Southern District of California, in that certain bankruptcy proceeding entitled "In the Matter of ROUTT LUMBER COMPANY, a corporation, bankrupt" wherein Standard Planing Mill, a corporation, is Appellant and you are Appellees, and you are hereby ordered to show cause, if any there be, why the order or judgment rendered against the said appellant in the said order allowing appeal mentioned, should not be corrected, and speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable CURTIS D. WILBUR, Senior United States Circuit Judge for the Ninth Circuit, this 29th day of July, A. D. 1931, and of the Independence of the United States, the one hundred and fifty-sixth.

Curtis D. Wilbur,
Senior U. S. Circuit Judge.

[Endorsed]: Copy Received Jul 29 - 31 Wm. J. Hayes & Grant H Wren Att. for Petitioning Crds. Filed Aug 5-1931 at 40 min. past 12 o'clock p m. R. S. Zimmerman, Clerk, L B Figg Deputy

IN THE NORTHERN DIVISION OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

In the Matter of)	
)	
)	
ROUTT LUMBER CO.,)	No. 2847-H
a corporation,)	IN BANKRUPTCY.
)	
)	
Bankrupt.)	

PETITION FOR INJUNCTION

TO THE HONORABLE THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA:

The Petition of Pacific Coast Paper Company, Pacific Portland Cement Company, Sloss & Brittain, and A. Holm, Assignee of Redwood Manufacturers Company, Wendling-Nathan Company and Sugar Pine Lumber Company, Ltd., respectfully represents to this Honorable Court:

That on or about April 8th, 1931, there was filed on behalf of the first three creditors above named a petition praying that the above named Routt Lumber Company be adjudged a bankrupt;

That your Petitioners are creditors of the said Routt Lumber Company, a corporation;

That there is now and was at the time of filing of said petition a suit pending in the Superior Court of

the County of Fresno, State of California, in which L. W. Ellis is plaintiff and Standard Planing Mill, a corporation, is the defendant, to recover the sum of Seven Thousand Seventy-seven and 94/100 (\$7077.94) Dollars, interest in the sum of Eight Hundred Forty-six and 89/100 (\$849.89), attorneys' fees Six Hundred Eighty-one and 88/100 (\$861.88) and court costs in the sum of Thirteen and 10/100 (\$13.10) Dollars;

That in the Petition in Bankruptcy on file herein, the alleged acts of bankruptcy of the alleged bankrupt consists in the transfer to Standard Planing Mill, a corporation, defendant in said action, of certain moneys and property;

That judgment has been rendered in said suit and a writ of execution was placed in the hands of George J. Overholt, Sheriff of the County of Fresno, State of California, and that said Sheriff under said execution has levied upon certain real and personal property of said Standard Planing Mill, a corporation, and has advertised that he will sell said property on Saturday, the 18th day of April, 1931;

That your Petitioners are informed and believe that the Routt Lumber Company, a corporation, and the Standard Planing Mill, a corporation, are one and the same alter ego and business conduit each of the other.

That should the said plaintiff in said action receive payment of his claim under the execution, he would obtain an advantage which would be unjust and unequitable to the other creditors herein.

WHEREFORE, your Petitioners pray that said suit and said execution sale be stayed until an adjudication of said Routt Lumber Company, a corporation, as a

bankrupt, or the dismissal of the Petition herein, and that if said Routt Lumber Company is adjudged a bankrupt such action and such execution sale be further stayed until twelve months after the date of adjudication or until the question of the discharge of said bankrupt is determined.

Grant H. Wren
William J Hayes
George C Faulkner
William T. Doyle
Attorneys for Petitioners.

STATE OF CALIFORNIA,)
) SS.
CITY AND COUNTY OF SAN FRANCISCO.)

A. HOLM, being first duly sworn, deposes and says:
That she is the Assignee of the Redwood Manufacturers Company, Wendling-Nathan Company and Sugar Pine Lumber Company, Ltd., three of the creditors of the above named bankrupt, and who are three of the Petitioners herein;

That she has read the foregoing Petition and knows the contents thereof, and that the statements therein contained are true, except as to the statements therein made on information or belief, and as to such statements she believes it to be true.

A. Holm

Subscribed and sworn to before me, this 11th day of April, 1931.

[Seal]

C. B. Sessions

NOTARY PUBLIC In and for the City and County of San Francisco, State of California.

[Endorsed]: Filed Apr 14 1931 4 P. M. R. S. Zimmerman, Clerk By B B Hansen Deputy Clerk

[TITLE OF COURT AND CAUSE.]

Upon reading and filing the Petition of Pacific Coast Paper Company, Pacific Portland Cement Company, Sloss & Brittain and A. Holm, creditors of the above named bankrupt, and it appearing therefrom, and upon the verified Petition of said creditors herein praying that the above named Routt Lumber Company, a corporation, be adjudged a bankrupt within the purview of the Acts of Congress relating to bankruptcy, that:

A suit is now, and was at the time of the filing of Petition in Bankruptcy herein, pending in the Superior Court of the County of Fresno, State of California, being numbered 47788 in the files of said Court, in which L. W. Ellis is plaintiff, and Standard Planing Mill, a corporation, is defendant, to recover the sum of Seven Thousand Seventy-seven and 94/100 (\$7077.94) dollars principal, interest in the sum of Eight Hundred Forty-six and 89/100 (\$846.89) Dollars, attorney's fees in the sum of Six Hundred Eighty-one and 88/100 (\$861.88) Dollars, and court costs in the sum of Thirteen and 10/100 (\$13.10) Dollars, and that said suit is filed against the alleged alter ego and business conduit of the Routt Lumber Company, a corporation, and that the defendant in said suit had previously received property from the alleged bankrupt, which property petitioners are informed and believe, and therefore allege belongs to the said Routt Lumber Company, a bankrupt, and that unless the exe-

cution sale is restrained that the said L. W. Ellis will obtain an unjust and unequitable advantage over the other creditors of the said Routt Lumber Company;

And that in said suit a writ of execution has been placed in the hands of George J. Overholt, Sheriff of the County of Fresno, State of California, and that said Sheriff has advertised that he will, on Saturday, the 17th day of April, 1931, sell the property of said Standard Planing Mill, a corporation, under said execution, and that said Sheriff will, unless restrained by the Order of this Court sell said property under said execution;

IT IS HEREBY ORDERED that said suit against said Standard Planing Mill, a corporation, and said execution sale be, and the same is hereby stayed for a period of eight days from the date hereof.

It is further ordered that said George J. Overholt, Sheriff of Fresno County, California, appear before this court at 2:00 o'clock p. m. on Tuesday, the 21st day of April, 1931, then and there to show cause if any he has why a perpetual injunction should not be issued enjoining the said Sheriff from proceeding under the said levy, or any other process issued in said suit.

It is further ordered that a copy of the petition and order herein be served on said George J. Overholt, Sheriff of Fresno County, California, on or before Saturday, the 18th day of April, 1931.

DATED: April 13th, 1931.

Paul J McCormick
District Judge.

[Endorsed]: Filed Apr 14 1931 4 P. M. R. S. Zimmerman, Clerk By B B Hansen, Deputy Clerk.

RETURN ON SERVICE OF WRIT.

United States of America, }
 Sou. District of Cal } ss:

I hereby certify and return that I served the annexed Restraining Order and Order to Show Cause on the therein-named George J. Overholt Sheriff Fresno Co. Cal. by handing to and leaving a true and correct copy thereof with George J Overholt personally at Fresno in said District on the 15th day of April, A. D. 1931

A C Sittel

U. S. Marshal.

By S J Shannon

Deputy.

[TITLE OF COURT AND CAUSE.]

AFFIDAVIT ON ORDER TO SHOW CAUSE WHY
 RESTRAINING ORDER SHOULD NOT BE
 MADE PERMANENT

STATE OF CALIFORNA,)
) : ss
 COUNTY OF FRESNO)

M. C. Routt, being first duly sworn, deposes and says: That he is a stock-holder and member of the Board of Directors of the Routt Lumber Company, and has been such since the organization of said company.

Affiant further says that he knows the personnel and owners of the Standard Planing Mill, a corporation, and has known the stock-holders and personnel of said Company since its organization. That the stock-holders

and owners of the Routt Lumber Company are different from the stockholders and owners of the Standard Planing Mill, and that they never have, since the organization of the Companies been the same.

That the present stock-holders of the Standard Planing Mill are M. D. Bishop, 11500 shares; Builders Finance Company, 14600 shares; W. E. Opie, 10,000 shares; Leonard R. Routt, 1 share; V. L. Routt, 1 share, M. C. Gibbs, 1 share.

That the said M. D. Bishop has been the holder of a large number of shares in said corporation since its organization.

That the present stock-holders of the Routt Lumber Company are M. C. Routt, 1162 shares; Mildred W. Routt, 413 shares; Ella H. Routt, 511 shares; Margaret Routt, 511 shares; Hiram Routt, 1 share; Leonard R. Routt, 1 share; Virgil Routt, 1 share; P. B. Barthe 100 shares;

That the said owners of stock in said corporations were the owners thereof prior to the commencement of any of the proceedings mentioned in the petition filed herein praying for a restraining order, and that as hereinbefore stated the said M. D. Bishop has been the owner of a large number of shares of the capital stock of the Standard Planing Mill ever since its organization.

That the business of each of said corporations has been from the beginning, separate and distinct from the business of the other; that each of said corporations have kept during all said time its books of account, and accounts separate and distinct, and in every particular have been operated and conducted as separate, distinct and individual companies, and that the persons holding stock

Standard Planing Mill, a corporation, would affect property which, though it stands in the name of the Standard Planing Mill, a corporation, in truth and in fact belongs to the Routt Lumber Company.

V.

That it appears after an examination of the books of both the Routt Lumber Company and the Standard Planing Mill, a corporation, for the period commencing with June, 1930, and terminating on or about March 20, 1931, that the Routt Lumber Company conducted the business of the Standard Planing Mill, a corporation, for the period commencing with June, 1930 and terminating on or about January 1, 1931, for the reason that the books of the Standard Planing Mill, a corporation, showed practically no activities for the said period, whereas the books of the Routt Lumber Company showed daily business over the same period and the charge tags of the Routt Lumber Company carried merchandise of a character similar to that ordinarily handled in the usual course of business by a planing mill and that the inventory of the Standard Planing Mill, a corporation, now shows merchandise of a similar character, whereas the inventory of the Routt Lumber Company shows lumber, lime and cement; that the merchandise above referred to consists of mill work, roofing, nails, hardware, paint, and finished lumber.

VI.

That your petitioner has in his possession, as receiver of said Routt Lumber Company, the following certificates of stock of the Standard Planing Mill, a corporation:

II.

That your affiant is one of the attorneys for the petitioners herein.

III.

That on or about the 7th day of February, 1931, your affiant examined the stock books of the Routt Lumber Company, the alleged bankrupt, and the Standard Planing Mill, a corporation, and had notations made of the stock certificates which were issued in both companies. That the affidavit of M. C. Routt on file in the above entitled court correctly states the recorded stockholders of the Routt Lumber Company but that the said affidavit with reference to the Standard Planing Mill, a corporation, is erroneous in that on or about the said 7th day of February, 1931 the stock book of the Standard Planing Mill, a corporation, showed the following certificates outstanding:

CERT. NO.	HOLDER	DATE ISSUED	NO. SHARES
4	M. D. Bishop	9-17-24	5,000
5	M. D. Bishop	9-17-24	1,500
6	Routt Lumber Co.	9-17-24	1,000
7	Routt Lumber Co.	9-17-24	2,500
8	Routt Lumber Co.	9-17-24	2,500
9	Routt Lumber Co.	9-17-24	5,000
10	Routt Lumber Co.	9-17-24	5,000
11	Routt Lumber Co.	9-17-24	5,000
12	M. D. Bishop	5- 1-25	800
13	Routt Lumber Co.	5- 1-25	3,600
14	M. D. Bishop	5- 1-25	1,200
15	M. D. Bishop	5- 1-25	3,000
16	Virgil S. Routt		1 share
18	Leonard W. Routt	1-12-29	1 share
19	M. K. Gibbs	2-28-29	1 share

That according to said stock book Routt Lumber Company was the owner of 24,600 shares of stock of the Standard Planing Mill, a corporation, and M. D. Bishop was the owner of 11,500 shares of stock of the Standard Planing Mill, a corporation. That subsequently, and on April 21, 1931, your affiant again examined the stock book of the Standard Planing Mill, a corporation, and found no changes in the stock ownership differing from the above statement.

IV.

That on or about the 7th day of February, 1931, the Routt Lumber Company had in its possession the certificate evidencing its ownership of 24,600 shares of the Standard Planing Mill's stock and your affiant saw these certificates in the possession of the receiver herein on April 22, 1931.

V.

That on or about the 1st day of January, 1929, one of the creditors herein was furnished by the Routt Lumber Company a financial statement, i. e. a trial balance of the Routt Lumber Company, dated December 31, 1928 in which statement 24,600 shares of the stock of the Standard Planing Mill, a corporation, were listed as an asset of the Routt Lumber Company.

VI.

That in a financial statement, dated January 31, 1931, submitted to one of the creditors herein by the Routt Lumber Company, the statement set forth that Routt Lumber Company was the owner of 24,600 shares of stock of the Standard Planing Mill, a corporation.

VII.

That your affiant was informed by Leonard W. Routt in February of this year that Virgil S. Routt was the vice-president of the Routt Lumber Company and also was the vice-president of the Standard Planing Mill, a corporation, and that said Leonard W. Routt was the secretary of the Routt Lumber Company and also was the secretary of the Standard Planing Mill, a corporation; that the records of said companies indicate that said officers above mentioned have held their respective offices since prior to March, 1929.

VIII.

That your affiant has read a certain contract dated December 20, 1928, wherein Routt Lumber Company, a corporation, is the vendor and M. D. Bishop is the vendee, wherein and whereby the vendor is purchasing 11,500 shares of stock in the Standard Planing Mill, a corporation, from M. D. Bishop. That a true copy of this contract is attached hereto, marked Exhibit "A" and hereby made a part hereof as fully as if it were herein set forth, and that your affiant verily believes that upon the completion of the obligations in the said contract assumed by the said Routt Lumber Company that the said Routt Lumber Company will be entitled to the delivery of the said shares of stock to it by the said M. D. Bishop.

IX.

That your affiant endeavored to obtain an affidavit from said M. D. Bishop and communicated with him by telephone in Watsonville on three separate occasions. That said M. D. Bishop was unable to come to Fresno and an affidavit made by him could not reach Fresno in time for service on the respondent. That said M. D. Bishop

stated to your affiant that the said contract had never been rescinded or revoked and is now in full force and effect.

X.

That while M. D. Bishop has been the holder of a large number of shares in said Standard Planing Mill, a corporation, since its organization, he never at any time has held a majority of the stock.

XI.

That Builders Finance Company, the alleged owner of 14,600 shares of stock of the Standard Planing Mill, a corporation, is a California corporation. That its incorporators include M. C. Routt and Virgil Routt. That your affiant is informed and believes and therefore alleges that M. C. Routt is the owner and holder of a majority of the stock in said corporation.

William T. Doyle

Subscribed and sworn to before me this 22nd day of April, 1931.

[Seal]

E. E. Lagerstrom

Notary Public in and for said County and State.

EXHIBIT "A"

THIS AGREEMENT, made and entered into this 20th day of December, 1928, by and between the ROUTT LUMBER COMPANY, a California corporation, having its principal place of business in the City of Fresno, County of Fresno, State of California, hereinafter referred to as the party of the first part, and M. D. BISHOP, of the City of Fresno, County of Fresno,

State of California, hereinafter referred to as the party of the second part, WITNESSETH:

THAT WHEREAS, the party of the second part is the legal owner and holder of Eleven Thousand Five Hundred (11,500) shares of stock in the Standard Planing Mill, a corporation, organized and existing under and by virtue of the laws of the State of California, and having its principal place of business in the City of Fresno, County of Fresno, State of California, which said Eleven Thousand Five Hundred (11,500) shares are evidenced by said last named company's certificates numbered Four (4), Five (5) and Twelve (12) and Fourteen (14) and Fifteen (15) and it being understood that said M. D. Bishop, party of the second part, has heretofore assigned as collateral security Seven Thousand Three Hundred (7,300) shares of said stock evidenced by certificates numbered Four (4), Five (5) and Twelve (12) to Mrs. I. Bishop, Oakland, California;

AND WHEREAS, the party of the first part is desirous of purchasing from the party of the second part the said Eleven Thousand Five Hundred (11,500) shares of Standard Planing Mill stock hereinabove referred to, and the party of the second part is desirous of selling to the party of the first part the said Eleven Thousand Five Hundred (11,500) shares of Standard Planing Mill stock hereinabove referred to;

NOW THEREFORE, in consideration of the party of the second part relinquishing to the party of the first part *and* all of his right, title and interest in and to any dividends which may in the future accrue or become earned upon his said Eleven Thousand Five Hundred (11,500) shares of Standard Planing Mill stock herein-

above referred to and any profits which may hereafter become earned or accrue on said stock, whether declared or otherwise, and in consideration of the second party's assigning and setting over to the party of the first part all of his right, title and interest in and to any dividends upon said stock which may hereafter accrue or become earned, or any profits upon said stock, whether the same be declared or not, the party of the first part hereby agrees to purchase the said stock of and from the party of the second part for the sum of Eleven Thousand Five Hundred Dollars (\$11,500.00), in lawful money of the United States of America, the same being the par value of said Eleven Thousand Five Hundred (11,500) shares of Standard Planing Mill stock, said purchase to be consummated within five (5) years from the 1st day of January, 1929, and the party of the first part hereby agrees to pay to the party of the second part interest upon the said sum of money at the rate of eight per cent (8%) per annum, said interest to date from the 1st day of January, 1929, and to be payable quarterly thereafter until such time as payment in full shall have been made to the party of the second part; any payments made upon the principal sum herein shall be deducted and interest figured upon the unpaid balance at the above rate.

The party of the first part further indemnifies said second party against any assessments of whatsoever kind and nature which may be hereafter levied, assessed or imposed against said Eleven Thousand Five Hundred (11,500) shares of stock hereinabove referred to. It is understood and agreed, however, that in the event the party of the first part makes payment in full to the party of the second part of the principal amount due hereunder,

together with all interest which may become due upon said principal within a period of eighteen months from and after the first day of January, 1929, then and in that event the party of the first part shall be entitled to a One Thousand Dollar (\$1,000.00) discount upon the purchase price hereof and full payment if made prior to the expiration of eighteen months from said date shall consist of the sum of Ten Thousand Five Hundred Dollars (\$10,500.00), together with interest to the date of payment as hereinabove provided. It is further understood and agreed by and between the parties hereto that in the event of a liquidation of the assets of said Standard Planing Mill, a corporation, whether the same be by bankruptcy, compromise for the benefit of creditors, or in any other wise, or in the event of a dissolution of said corporation, then the principal sum provided in this agreement shall immediately become due and payable from the party of the first part to the party of the second part. Upon full payment as provided herein, the party of the second part hereby agrees to assign or cause to be assigned the said Eleven Thousand Five Hundred (11,500) shares of stock unto the party of the first part.

Time is of the essence of this agreement, and this agreement and each and every term hereof shall inure to and be binding upon said first party and its successors and assigns, and shall inure to and be binding on second party, his heirs, executors, administrators and assigns.

IN WITNESS WHEREOF, the said Roult Lumber Company has by its President and Secretary hereunto subscribed its name and affixed its corporate seal hereto, and the party of the second part has affixed his signature

hereunto in the City of Fresno, County of Fresno, State of California, this 20th. day of December, 1928.

ROUTT LUMBER COMPANY, a corporation

By HIRAM ROUTT

(SEAL)

President.

By PEDER J. PEDERSEN

Secretary.

M. D. BISHOP

STATE OF CALIFORNIA,)
County of Fresno (ss.

On this 20th day of December, in the year one thousand nine hundred and twenty-eight, before me, William B. Backlund, a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared M. D. Bishop known to me to be the person described in, whose name is subscribed to and who executed the within instrument, and acknowledged that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in said County, the day and year in this Certificate first above written.

(Seal)

WILLIAM B. BACKLUND

Notary Public in and for said County and State.

STATE OF CALIFORNIA)
 COUNTY OF FRESNO (ss.

On this 20th day of December, in the year one thousand nine hundred and twenty-eight, before me, Roy W. Bagby a Notary Public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared Hiram Routt known to me to be the President, and Peder J. Pederson known to me to be the Secretary of the Routt Lumber Company, the corporation that executed the within instrument, and known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in said County, the day and year in this Certificate first above written.

(Seal)

ROY W. BAGBY

Notary Public in and for said County and State.

My Commission Expires June 12, 1932

For and in consideration of M. D. Bishop of the City of Fresno, County of Fresno, State of California, selling to Routt Lumber Company, a corporation, organized and existing under and by virtue of the laws of the State of California, and having its principal place of business in the City of Fresno, County of Fresno, State of California, Eleven Thousand Five Hundred (11,500) shares of corporate stock of the Standard Planing Mill, a California corporation, we, the Builders Finance Company of

Fresno, a corporation, existing under and by virtue of the laws of the State of California, having its principal place of business in the City of Fresno, County of Fresno, State of California, hereby agree with said M. D. Bishop in the event that said Routt Lumber Company, a corporation, party of the first part in the foregoing contract, shall fail to perform any one or more of the terms in said agreement, then and in that event we, the Builders Finance Company of Fresno hereby agree to perform said term or terms and we hereby agree that in the event that any of the moneys to be paid by the Routt Lumber Company, a corporation, be not paid by them, that we, the Builders Finance Company of Fresno, will pay to said M. D. Bishop any moneys so due under said agreement.

IN WITNESS WHEREOF, said Builders Finance Company of Fresno by its president and secretary have subscribed its name hereto and affixed its corporate seal in the City of Fresno, County of Fresno, State of California, this day of , 1928.

The Builders Finance Company of
Fresno, a corporation.

By M. C. ROUTT

President.

By VIRGIL S. ROUTT

Secretary.

[Endorsed]: Receipt of a copy of the within affidavit is hereby admitted this 22nd day of April, 1931 at 11:33 A. M. Irvine P. Aten Attorney for respondent. Filed Apr 22 1931 12 noon R. S. Zimmerman, Clerk By B B Hansen Deputy Clerk

against the property of the Standard Planing Mill, would, from the records as shown by the books of either of said companies, be levied upon property of the Routt Lumber Company; that the inventories of each of said companies are complete and separate and distinct, and are in the hands of the Sheriff of the County of Fresno.

Affiant further says that it is not true as stated in the said affidavit of C. W. Krumbholz that the Routt Lumber Company conducted the business of the Standard Planing Mill Company for a period commencing in June of 1930, and ending about January 1, 1931, but in this connection affiant says that in the Fall of the year 1928, a fire partially destroyed the machinery and a portion of the stock of the Standard Planing Mill and that thereafter, and in and about the month of December the said M. D. Bishop who was operating the said mill moved his residence from Fresno, and from that date until the 15th day of December, 1930, the Standard Planing Mill did not conduct a retail business and did not operate its mill machinery but that on or about the 15th day of December, 1930, having repaired and replaced its mill machinery, the Standard Planing Mill again commenced the operation of the mill and box shoop factory and continued to operate and conduct the same until it was attached on or about the first day of March, 1931, by the creditors who have filed a petition herein against the Routt Lumber Company.

That C. W. Krumbholz, the person appointed Receiver in the above entitled action, and making the affidavit hereinbefore referred to, is not a disinterested person, but is now and has been for a number of years last past in charge of the sales department of the Sugar Pine Lumber Company, one of the petitioners herein.

Affiant further says that the stock transfers of the Standard Planing Mill, showing the ownership of the stock by W. P. Opie and Builders Finance Company have not been made on the books of the Company, for the reason that the books have not been available, but are in the possession of the said Receiver in this proceeding.

Leonard W Routt

Subscribed and sworn to before me this 23d day of April, 1931.

[Seal]

Irvine P. Aten

Notary Public in and for said County and State.

[Endorsed]: Receipt of a copy 4/23/31 W T Doyle
 Filed Apr 28 1931 9:15 a.m. R. S. Zimmerman, Clerk
 By B B Hansen Deputy Clerk

[TITLE OF COURT AND CAUSE.]

AFFIDAVIT OF M. D. BISHOP.

STATE OF CALIFORNIA,)
 County of Fresno.) ss.

M. D. BISHOP, being first duly sworn, deposes and says:

That about five years ago affiant, for a valuable consideration, became the owner of 11,500 shares of stock in Standard Planing Mill, a corporation, evidenced by Cer-

tificates 4, 5, 12, 14 and 15 of said corporation; that thereafter and on the 20th day of December, 1928, affiant contracted to sell said 11,500 shares of stock of Standard Planing Mill, a corporation, to Routt Lumber Co., a corporation; that thereafter and on or about the 3rd day of March, 1931, Routt Lumber Co., a corporation, the vendee under said contract, became in default under its contract to purchase said stock and became unable and unwilling to complete said purchase; that thereupon and on or about the 3rd day of March, 1931, affiant and Routt Lumber Co., by an instrument in writing, cancelled the contract of December 20th, 1928, whereby Routt Lumber Co. agreed to purchase said stock; that according to the terms of said written cancellation, Routt Lumber Co. released any and all claim to the stock arising out of said agreement, and affiant accepted said release in full satisfaction of said contract. That affiant is now the owner and holder of said stock; that he holds the same as the absolute owner thereof; that he has no connection, directly or indirectly, with Routt Lumber Co., and that his said ownership in said stock is now clear of any claim whatever on the part of Routt Lumber Co.

That affiant at various times in the past has been employed by Routt Lumber Co. and Standard Planing Mill, and knows of his own knowledge that said corporations, and each of them, have been maintained as separate corporations, each having separate books, separate stocks of merchandise and each maintaining separate bank accounts.

That when Wm. T. Doyle communicated with affiant over the telephone, as stated in his affidavit on file in this matter, said Doyle asked affiant if the Routt Lumber Co. had served affiant with notice of rescission of said contract, to which affiant replied that it had not. That in said telephone conversation said Doyle further asked if, as far as affiant knew, said contract was in full force and effect. That affiant answered in the affirmative but at said time affiant had no opportunity to inspect the papers connected with the transactions involving said contract, or examine into or refresh his memory relative to certain transactions that had taken place, and certain instruments drawn in connection with said contract. That it is true that no rescission of said contract by said Routt Lumber Company has ever been served upon affiant as stated by affiant to said Doyle. That affiant, however, has discovered that he was in error in his statement to said Doyle that said contract was in full force and effect, and has subsequently discovered that an agreement between himself and Routt Lumber Company mutually cancelling said contract was executed prior to the date of said telephone conversation by affiant with said Doyle.

M. D. Bishop

Subscribed and sworn to before me this 24th day of April, 1931.

[Seal]

Fred J. Rogers,

Notary Public in and for said County and State.

[Endorsed]: Filed Apr 28 1931 9:15 A. M. R. S. Zimmerman, Clerk By B. B. Hansen Deputy Clerk

[TITLE OF COURT AND CAUSE.]

AFFIDAVIT OF H. W. HILLS

STATE OF CALIFORNIA,)
) ss
 County of Fresno.)

H. W. HILLS, being first duly sworn, deposes and says: That he is a certified public accountant and has for a number of years made the state franchise report and Federal Income Tax Report of the Routt Lumber Company, and of the Standard Planing Mill, a corporation; that each of said companies are distinct and separate companies and maintain a distinct and separate set of books.

That each of said corporations maintains a set of books complete within itself and distinct from the other corporation; that the State Franchise Reports and Federal Income Tax Reports have in the case of each corporation been made up from the book entries of each individual corporation: that the last tax returns were prepared by affiant from said books for each corporation about March 1st, 1931.

H. W. Hills.

Subscribed and sworn to before me this 23rd day of April, 1931.

[Seal]

Irvine P. Aten

Notary Public in and for the County of Fresno,
 State of California.

[Endorsed]: Receipt of a copy 4/23/31 W T Doyle.
 Filed Apr 28 1931 9:15 A. M. R. S. Zimmerman, Clerk
 By B. B. Hansen Deputy Clerk

in said company; that the said 24,600 shares of the stock of the Standard Planing Mill Company held by the Routt Lumber Company has been held as security by the said W. E. Opie and the Builders Finance Company for more than a year prior to the said 3rd day of March, 1931, when the sale of said stock was consummated with the said security holders. Affiant further says that the said M. D. Bishop has at all times since the organization of said Standard Planing Mill Company been the owner of and is now the owner of 11,500 shares of stock of said Company.

That it is true that on or after the 20th day of December, 1928, the Routt Lumber Company entered into an agreement to purchase from M. D. Bishop his said shares of stock in the said Standard Planing Mill Company, but that no money was ever paid on the contract of purchase of said stock excepting interest, and that said contract was heretofore cancelled and delivered up and the Routt Lumber Company has no claim whatever in and to said stock of M. D. Bishop.

M C Routt

Subscribed and sworn to before me this 23 day of April, 1931.

[Seal]

Irvine P. Aten

Notary Public in and for said County and State.

[Endorsed]: Receipt of a copy 4/23/31 W T Doyle.
Filed Apr 28 1931 9:15 A. M. R. S. Zimmerman, Clerk
By B. B. Hansen Deputy Clerk

At a stated term, to wit: The April Term, A. D. 1931, of the District Court of the United States of America, within and for the Northern Division of the Southern District of California, held at the court room thereof in the City of Fresno, on Tuesday the 28th day of April, in the year of our Lord one thousand nine hundred and thirty-one.

PRESENT: THE HONORABLE PAUL J. McCORMICK, District Judge.

In the Matter of)
)
Routt Lumber Co., a corp.) No. 2847-H-Bkcy.
)
Bankrupt,)

This matter coming before the Court for further hearing on Order to Show Cause dated April 14th, 1931, why injunction should not issue against Sheriff of Fresno County, etc., Wm. T. Doyle, Esq., appearing as counsel for the petitioners, and I. P. Aten, Esq., appearing as counsel for the respondents, now

At the hour of 10:30 o'clock a. m., counsel answer ready; whereupon, Wm. T. Doyle, Esq., argues in court in support of motion for injunction; and thereafter I. P. Aten, Esq., having argued to the Court in opposition thereto, it is by the Court ordered that the Restraining Order be, and the same hereby is, dissolved, and exception noted thereto.

[TITLE OF COURT AND CAUSE.]

PETITION TO EXTEND RECEIVERSHIP, ETC.

The petition of Pacific Coast Paper Company, Pacific Portland Cement Company, Sloss and Brittain and A. Holm, assignee of Redwood Manufacturers Company, Wendling-Nathan Company and Sugar Pine Lumber Company, Ltd., respectfully represents to this Honorable Court as follows:

I.

That on or about April 8, 1931, there was filed on behalf of the first three petitioners above named a petition praying that the above named Routt Lumber Company be adjudged a bankrupt;

II.

That all your petitioners herein are creditors of the said Routt Lumber Company, the alleged bankrupt, whose claims total in excess of \$25,000.00;

III.

That in the original petition on file herein the first three petitioners, above named, alleged that the Routt Lumber Company committed certain acts of bankruptcy in that there were certain transfers of certain assets to the Standard Planing Mill, a corporation, by the said Routt Lumber Company with intent to prefer the said Standard Planing Mill over other creditors, and particularly over your petitioners herein;

IV.

Subsequently and on April 30, 1931, your petitioners filed herein a notice of motion to amend their petition in bankruptcy by alleging acts of bankruptcy other than those alleged in the original petition on the ground that

subsequent to the filing of the original petition they had obtained information leading them to believe that the Standard Planing Mill was but a mere department of the Routt Lumber Company and was the alter ego and business conduit of the Routt Lumber Company.

On June 5, 1931, the above entitled Court, after hearing had thereon, permitted such amendment.

V.

That your petitioners allege that the Standard Planing Mill, a corporation, and the Routt Lumber Company, a corporation, are the business conduit and alter ego each of the other, and that the Standard Planing Mill is a mere department of the Routt Lumber Company, a corporation, and that the Standard Planing Mill is in fact and in substance the Routt Lumber Company under another name, for the following reasons:

(a) That the assets and goods of the two corporations are intermingled and confused.

(b) That the Routt Lumber Company, a corporation, and the Standard Planing Mill a corporation, have the same office and place of business in the City of Fresno, County of Fresno, in the same building, use the same office furniture, fixtures and telephone; that the Routt Lumber Company owns such office, place of business and buildings, but that the Standard Planing Mill has not since 1928 paid any rent to the Routt Lumber Company for its use and occupancy of the office and buildings and premises.

(c) That the Standard Planing Mill, a corporation, does not appear on the Assessment Roll of Fresno County, State of California, and has paid no taxes since 1928; that the Routt Lumber Company has since 1928 paid all personal property taxes to the County Assessor of the County

of Fresno, State of California, on all personal property of the Standard Planing Mill and has not debited the account of the Standard Planing Mill on its books and records with such payment of taxes; that the Standard Planing Mill has neither paid the Routt Lumber Company nor credited the Routt Lumber Company on its books for such tax payments made as aforesaid;

(d) That the managing officers of the Standard Planing Mill and the Routt Lumber Company have been one and the same since December, 1928, to-wit: Leonard Routt has been Vice-President, and Virgil Routt has been Secretary, of both the Standard Planing Mill and the Routt Lumber Company since December, 1928.

(e) That from December, 1928 until March 3, 1931, the Routt Lumber Company owned over two-thirds of the capital stock of the Standard Planing Mill and was purchasing on a contract of sale from M. D. Bishop the remaining outstanding shares of the capital stock of the Standard Planing Mill; that the transfers by the Routt Lumber Company of the above mentioned two-thirds of the capital stock on March 3, 1931, are two of the acts of bankruptcy alleged in the amended petition;

(f) That the Routt Lumber Company and the Standard Planing Mill used the same bill-head. See Exhibit "A" of bill-head hereto annexed.

(g) That on February 9, 1931, as is more specifically alleged in the original petition in involuntary bankruptcy on file herein, the Routt Lumber Company, while insolvent, made a book transfer to Standard Planing Mill of a certain five-ton truck;

(h) That on December 17, 1930, as is more specifically alleged in the original petition in involuntary bankruptcy

on file herein, the Routt Lumber Company while insolvent made a book transfer to Standard Planing Mill of certain accounts and notes receivable having the face value of \$6,224.00;

(i) That on February 7, 1931, Routt Lumber Company purchased from Yosemite Portland Cement Company 950 sacks of cement and ordered them delivered directly to one Walter Harris in the City of Fresno, County of Fresno; that subsequently said Harris paid the Standard Planing Mill for these 950 sacks of cement; that the Standard Planing Mill received said payment but did not credit the Routt Lumber Company therewith; that the Routt Lumber Company carries on its books a debit for this amount owing to the Yosemite Portland Cement Corporation; that the Standard Planing Mill has not credited the Routt Lumber Company with said payment.

(j) On different dates in January, 1931, to-wit, the 3rd, 7th, 8th, 15th and 31st, the Routt Lumber Company while insolvent purchased and received from Pacific Coast Paper Company certain shingles, cement, asphalt sheeting, etc; that the Routt Lumber Company still carries on its books among its accounts payable a debit for these items thus purchased; that the Standard Planing Mill lists these same items in its inventory and has them in its possession; that the books of the Routt Lumber Company do not show any transfer to the Standard Planing Mill of these items, nor do the books of the Standard Planing Mill show any such transfer.

(k) On February 28, 1931, the Routt Lumber Company while insolvent purchased and received from the T-O Paint Store, Fresno, California, certain paints; that the Routt Lumber Company still carries on its books among its accounts payable a debit for these items thus purchased; that the Standard Planing Mill lists these same items in its inventory and has them in its possession; that the books of the Routt Lumber Company do not show any transfer to the Standard Planing Mill of these items, nor do the books of the Standard Planing Mill show any such transfer;

(1) That on certain dates in January, 1931, namely the 10th, 14th, 15th, 16th, 21st, 23rd, 26th and 29th, the Routt Lumber Company while insolvent purchased and received certain glass ware and mirrors from Tyre Brothers Glass Company, Inc., Fresno, California; that the Routt Lumber Company still carries on its books among its account payable a debit for these items thus purchased; that the Standard Planing Mill lists these same items in its inventory and has them in its possession; that the books of the Routt Lumber Company do not show any transfer to the Standard Planing Mill of these items, nor do the books of the Standard Planing Mill show any such transfer;

(m) That on February 8, 1931, Routt Lumber Company while insolvent purchased and received from Maisler Brothers Lumber Company certain lumber; that the Routt Lumber Company still carries on its books among its

accounts payable a debit for these items thus purchased; that the Standard Planing Mill lists these same items in its inventory and has them in its possession; that the books of the Routt Lumber Company do not show any transfer to the Standard Planing Mill of these items, nor do the books of the Standard Planing Mill show any such transfer.

VI.

That A. Holm, one of your petitioners herein, has sued the Routt Lumber Company and the Standard Planing Mill and attached the properties and assets of the Routt Lumber Company and the Standard Planing Mill; that in said suit under a writ of attachment the Sheriff of Fresno County has been and now is in possession of the properties of the Standard Planing Mill since March 20, 1931; that the Sheriff's possession as aforesaid is for the benefit of all the creditors of the Routt Lumber Company and the Standard Planing Mill; that said A. Holm has been forced to expend the sum of Five Dollars (\$5.00) a day since March 20, 1931, to preserve these assets for the benefit of said creditors.

VII.

That on or about the 1st day of April, 1931, one L. W. Ellis, assignee of Orville Routt, brother of Leonard and Virgil Routt, the officers of the Standard Planing Mill and the Routt Lumber Company, commenced a suit against the Standard Planing Mill for some \$8500.00 and was permitted to obtain a default judgment in said suit;

that thereafter the Sheriff of Fresno County, under Writ of Execution in said suit attempted to sell certain personal property of the Standard Planing Mill; that the officers and attorney for the Standard Planing Mill encouraged the Sheriff in making such sale and appeared in Court and filed affidavits to so assist the Sheriff; that said sale by the Sheriff has been temporarily held up by an order of the Supreme Court of the State of California;

VIII.

That the Standard Planing Mill is conducting no business operation, and has no employees to take care of its assets and properties; that the said assets and properties may be damaged, destroyed or stolen.

IX.

That most of the assets of the Standard Planing Mill are intermingled with the assets of the Routt Lumber Company on the premises occupied by C. W. Krumbholz as Receiver of the Routt Lumber Company.

X.

That this petition cannot be heard in Fresno County before the October term of this Court held in the City of Fresno or in any event before the law and motion calendar of this Court in Fresno County on August, 1931. That unless this Court makes its order forthwith either extending the receivership in the matter of the Routt Lumber Company to include the property and assets of the Standard Planing Mill or enjoining and restraining the Standard Planing Mill, its officers and agents, from

collecting, disposing, conveying or otherwise dispossessing itself of its assets and properties, your petitioners herein, and all creditors of Routt Lumber Company will suffer irreparable damage.

WHEREFORE, your petitioners pray that:

1. The Receivership of C. W. Krumbholz as Receiver of the Routt Lumber Company, an alleged bankrupt, be extended to include the properties and assets of the Standard Planing Mill, a corporation, and that he take them into his custody as such Receiver, and that the said Receiver be permitted to conduct the business of the Standard Planing Mill as well as the Routt Lumber Company until such time as a trustee be appointed herein, or until further order of this Court, or

2. In the alternative, that this Court make its order enjoining and restraining the Standard Planing Mill and its officers and agents from disposing of, collecting, or appropriating to their own use any of the assets and properties of the Standard Planing Mill prior to the appointment of a trustee in bankruptcy for the Routt Lumber Company, or

3. As a second alternative, that this Court permit and authorize C. W. Krumbholz, as Receiver of the Routt Lumber Company, to sue the Standard Planing Mill for the recovery of all assets of the Routt Lumber Company heretofore transferred to the Standard Planing Mill without lawful consideration or now in the possession of the

Standard Planing Mill, or for such other relief as may be meet and just in the premises.

Respectfully submitted,

PACIFIC PORTLAND CEMENT COMPANY,
a corporation

PACIFIC PORTLAND CEMENT COMPANY

BY W. P. Burgess

ASST. TREASURER

PACIFIC COAST PAPER COMPANY,
a corporation,

By E. J. Diguere

Its Secretary

SLOSS & BRITAIN, a corporation,

By J. N. Brittain

Its Secretary.

A. Holm

Hayes & Wren

William T. Doyle

Attorneys for Petitioners.

UNITED STATES OF AMERICA)
Northern District of California,) SS.
City and County of San Francisco.)

W. P. Burgess, E. J. Diguere, J. N. Brittain, A. Holm hereby make solemn oath that W. P. Burgess is an officer, to-wit, Asst. Treasurer of said Pacific Portland Cement

Co., a corporation, one of the petitioners herein; that E. J. Diguere is an officer, to-wit, Secretary of said Pacific Coast Paper Co., a corporation, one of the petitioners herein; that J. N. Brittain is an officer, to-wit, Secretary of said Sloss & Brittain, a corporation, one of the petitioners herein; and that the statements contained in the foregoing petition are true.

W. P. Burgess

E. J. Diguere

J. N. Brittain

A. Holm

Subscribed and sworn to before me this 5th day of June
1931

[Seal]

William J. Brennan

Notary Public in and for the City and County of
San Francisco, State of California.

EXHIBIT "A"

(Photostat.)

[Endorsed]: Filed Jun 6 - 1931 at 30 min. past 12
o'clock p m R. S. Zimmerman, Clerk L B Figg Deputy

[TITLE OF COURT AND CAUSE.]

Upon reading and filing the verified petition of the petitioning creditors herein of A. HOLM and good cause appearing therefor;

IT IS HEREBY ORDERED that the STANDARD PLANING MILL, a corporation appear before this Court at the Court room of the Hon. Geo. Cosgrave at the Court house in the City of Los Angeles, State of California, on the 15 day of June 1931, at 2 o'clock p m then and there to show cause, if any it has, why the receivership of the ROUTT LUMBER COMPANY should not be extended so as to include all assets and properties of the STANDARD PLANING MILL.

IT IS HEREBY FURTHER ORDERED that the STANDARD PLANING MILL its officers and agents be and they are hereby enjoined and restrained from disposing of, conveying, collecting or appropriating to their own use any of the assets and property of the STANDARD PLANING MILL until further order of this court.

IT IS HEREBY FURTHER ORDERED that a copy of the Petition herein and a copy of this order be served upon the STANDARD PLANING MILL on or before June 9th, 1931.

June 6th, 1931.

Wm P James

District Judge

[Endorsed]: Filed Jun 6 - 1931 at 30 min past 12 o'clock p m R. S. Zimmerman, Clerk L. B. Figg Deputy

Honorable Paul J. McCormick, the judge presiding in this court at said time; which affidavits are on file in this proceeding, reference to which affidavits is hereby expressly made, and by such reference affiant reaffirms the matters set out in his own affidavit filed herein on said hearing and respectfully calls the attention of this court to the contents of all of said affidavits for the reason that the contention then made in this court on said hearing was that the Standard Planing Mill was the alter ego and business conduit of the Routt Lumber Company, and on that question alone, and upon the said affidavits presented herein at that time, the judge of this court dissolved the temporary restraining order theretofore granted.

That subsequent to the dissolution of said restraining order, A. Holm, one of the petitioners herein made an application in the Superior Court of the County of Fresno, State of California, and obtained there a temporary restraining order, restraining and enjoining the Sheriff of the County of Fresno, State of California from proceeding with said execution against the property of the Standard Mill, and that upon a hearing of said matter in said Court, the said restraining order was dissolved.

That in said action in said Superior Court, brought by A. Holm, as plaintiff against the Routt Lumber Company and Standard Planing Mill et al., defendants, the said A. Holm obtained a writ of attachment and has, as stated in the petition on file herein on this application, an attachment against the property of the Standard Planing Mill; that the said A. Holm as affiant is informed and believes and therefore upon such information and belief alleges the fact to be, is the stenographer in the office of one of the counsel of the petitioning creditors in this action, and is

the plaintiff in said action and one of the petitioners in this action not in her own right but merely as a matter of convenience and accommodation to the creditors named in said petition, and for that reason is not paying the expense of the said attachment, but as affiant is informed and believes the creditors herein are jointly bearing the expense of said proceedings, and have employed the same counsel to represent them in all of said proceedings.

In reference to the allegations in the petition filed in this application for extension of the authority of the Receiver over property of the Standard Planing Mill, and to the particular matters alleged therein, claimed by petitioners to prove that the Standard Planing Mill a corporation is the business conduit of the Routt Lumber Company, affiant again refers to the affidavits heretofore filed herein, and in addition to the matters therein set out says that it is not true that the assets and goods of the two corporations are intermingled and confused, but on the other hand that their assets are separate and distinct, and that the inventories of the property of the two companies are in the hands of the Sheriff of the County of Fresno, State of California, all of which is more fully shown by the affidavit of A. E. Callahan heretofore filed herein.

That it is true that the Routt Lumber Company and the Standard Planing Mill have the same office and place of business, but in this connection affiant alleges that their offices were maintained separately until a fire was had at the plant of the Standard Planing Mill in the year of

1928, and since that time the offices of the two companies have been maintained at the same place, and the Standard Mill has paid monthly power bills of the Routt Lumber Company in the average amount of \$75.00 in lieu of payment of rent direct to the Routt Lumber Company for the use of said office.

That it is not true as stated in said application that the Standard Planing Mill does not appear on the assessment roll of Fresno County or that the Routt Lumber Company has paid the taxes of the Standard Planing Mill; on the contrary the Routt Lumber Company has never paid taxes for the Standard Planing Mill, and the property of the Standard Planing Mill is assessed by the Assessor of the County of Fresno, a copy of the assessment for the current year being attached hereto, and hereby expressly made a part hereof.

That it is not true as stated in said petition that Leonard W. Routt has been Vice-President and Virgil Routt has been Secretary of both the Standard Planing Mill and the Routt Lumber Company since December in 1928, nor is it true as alleged in said petition that the managing officers of the Standard Planing Mill and the Routt Lumber Company have been one and the same since December in 1928, but as heretofore shown by affidavit of affiant, and other parties filed herein, the officers of said companies have never been the same, nor has the president of either of the companies ever been the president of the other.

That it is true that the Routt Lumber Company at one time owned two-thirds of the stock of the Standard Planing Mill, and that the other third of the stock was owned by M. D. Bishop, and is now owned by him, and approximately one-third of said stock is now owned by W. E. Opie, and the remaining stock is owned by Builders Finance Company, all of which more fully appears from the affidavits heretofore filed herein.

That it is not true as stated in said petition that the Routt Lumber Company and the Standard Planing Mill used the same bill-head; on the contrary their bill-heads were entirely distinct as was the stationery of each company not only distinct in name and distinct in color, and the exhibit attached to the application here as a bill-head was only an office memorandum, and was never given out to customers, and was in no sense a bill-head. True copies of the bill-heads of the said respective companies being attached hereto, and marked Exhibit "B".

That the acts of bankruptcy alleged in said petition by the transfer by the Routt Lumber Company to the Standard Planing Mill of a five ton truck, and of certain accounts were transactions made for good and valuable consideration, and in the regular course of business, and are denied in the answer to the petition of bankruptcy filed herein, and as affiant is informed will be contested by the alleged bankrupt.

That the statements contained in Paragraph V, Subdivisions "I" to "M" inclusive of the petitioner's application

herein are not true but that the detail of said transactions as shown by the affidavit of the certified accountant, H. W. Hills, filed herein in opposition to this application certify the facts concerning said transactions as well as the fact of the condition of the books relative thereto.

That it is true that one L. W. Ellis has obtained a judgment against the Standard Mill in the sum of approximately \$8500.00, and is attempting to collect said judgment; that affiant has made affidavits concerning the facts relative to said matters in order to see the just claims of the Standard Planing Mill paid, and is interested in seeing all of said claims paid; that the said Standard Planing Mill is not insolvent, and that in all of said various proceedings none of the petitioners herein have ever alleged that the Standard Planing Mill was insolvent, and unable to meet its obligations, and that it is to the interest of the Standard Planing Mill that all of its just obligations be paid, and that if the authority of the Receiver herein is extended to reach over the property of the Standard Planing Mill that it will unnecessarily hinder and delay any creditors of the Standard Planing Mill in realizing on their claims.

That it is not true as stated in said petition that the property and assets of the Standard Mill will be damaged, destroyed or stolen if the Receiver is not authorized to take charge of the same, but that the Sheriff of the County of Fresno has under attachment a great portion of said assets and is preserving the same under attachment

of A. Holm, one of the petitioners herein, and that affiant is looking after the balance of the property of the Standard Planing Mill and keeping it intact for the stockholders and any creditors.

That the Keeper employed by the Sheriff in charge of said property sleeps in the mill property and acts as an additional protection from fire, and if said property were transferred over to the Receiver it would be necessary that the Receiver employ someone to act as nightwatchman, and no expense would be saved in that respect.

Leonard W Routt

LEONARD W. ROUTT.

Subscribed and sworn to before me this 17th day of June, 1931.

[Seal]

Irvine P. Aten

IRVINE P. ATEN,

Notary Public in and for said County and State

(Exhibits.)

[Endorsed]: Receipt of copy 6/22/31 W. T. Doyle
Hayes & Wren—

Filed Jun 22, 1931, 4:00 p m R. S. Zimmerman,
Clerk By Francis E. Cross Deputy Clerk.

poration, but that the said books of the Routt Lumber Company show that the said Harris paid the purchase price of said cement to the Routt Lumber Company, and the books of the Routt Lumber Company show a credit to the Yosemite-Portland Cement Company in the accounts payable.

That it is true that on the 3rd, 7th, 8th, 15th and 31st of January, 1931, the Routt Lumber Company purchased and received from the Pacific Coast Paper Company certain shingles, cement, asphalt, sheeting etc., but that the Routt Lumber Company does not carry on its books, among its accounts payable a debit for these items, but a credit for them; that the books of both companies show that the said merchandise was sold by the Routt Lumber Company to the Standard Planing Mill, and the Standard Planing Mill paid to the Routt Lumber Company cash for said merchandise.

That it is true that on the 28th day of February, 1931, the Routt Lumber Company purchased and received from the T & O Paint Store certain paints, but it is not true that the Routt Lumber Company carries on its books, among its accounts payable, a debit for these items, but rather a credit on accounts payable, and it is not true that the books of the Routt Lumber Company do not show any transfer to the Standard Planing Mill of this property, but the books of both companies do show that the said paint was sold by the Routt Lumber Company to the Standard Planing Mill, and the Standard Planing Mill paid to the Routt Lumber Company, cash therefor.

That it is true as stated in said petition that on certain dates in January of 1931, namely the 10, 14, 15, 16, 21,

23, 26 and 29 the Routt Lumber Company purchased and received certain glassware and mirrors from Tyre Bros., and that on the 18th day of February, 1931, purchased and received from Meisler Bros., certain lumber, but it is not true as stated in said petition that the Routt Lumber Company carries on its books, among its accounts payable, as a debit, these items, but on the contrary a credit to accounts payable; and it is not true as stated in said petition that the books of the Routt Lumber Company do not show any transfer of said items to the Standard Planing Mill, nor is it true that the books of the Standard Planing Mill do not show such transfer, but on the contrary the books of both companies show that said items were sold by the Routt Lumber Company to the Standard Planing Mill, and the Standard Planing Mill paid to the Routt Lumber Company cash therefor.

That all of said transactions and the items mentioned therein, and the character of the transaction all appear plainly on the books of the Routt Lumber Company, and on the books of the Standard Planing Mill insofar as the Standard Planing Mill's business was affected thereby.

Dated: June 17, 1931.

H. W. Hills

Subscribed and sworn to before me this 17 day of June, 1931.

[Seal]

Irvine P. Aten

Notary Public in and for said County and State.

[Endorsed]: Received a copy of the within this 22nd day of June 1931 W. T. Doyle, Hayes & Wren Attorney for Pet. Filed Jun 22 1931 4 00 R. S. Zimmerman, Clerk By Francis E. Cross Deputy Clerk

[TITLE OF COURT AND CAUSE.]

AFFIDAVIT OF BETTY POHL

STATE OF CALIFORNIA,)
) ss.
 County of Fresno.)

BETTY POHL, being first duly sworn, deposes and says:

That with the exception of about six months, she has been employed continuously for a period of over three years by Routt Lumber Company and Standard Planing Mill, as a bookkeeper.

That both corporations occupied the same office at 2011 Tyler Avenue, Fresno, California; that each corporation kept and maintained two complete and distinct sets of double entry books; that all transactions of both corporations were kept separate and distinct, and entered in the books of the corporation handling said transaction. That each corporation had its own ledger, journals, cash book, and books for bills payable and receivable, and accounts payable and receivable. That each corporation had a separate bank account, separate sales account, separate merchandise account, and that separate inventories were always kept of all of the property of each corporation. That separate balance sheets were kept and maintained, and that the two sets of books were always absolutely separate and distinct in all details.

Betty Pohl

Subscribed and sworn to before me this 23rd day of April, 1931.

[Seal]

Irvine P. Aten

Notary Public in and for the County of Fresno,
 State of California.

of over two-thirds of the capital stock of the Standard Planing Mill.

6. That the managing officers of the Routt Lumber Company and the Standard Planing Mill are one and the same, and have been one and the same since December 1928.

7. That the Standard Planing Mill occupies the same office and place of business in the City of Fresno, County of Fresno, in the same building and use the same office furniture, fixtures, telephone, etc; that the Routt Lumber Company owns such office, place of business and building; that the Standard Planing Mill does not and has not since 1928 paid any rent to the Routt Lumber Company for its use and occupancy of the office and buildings and premises.

8. That the Routt Lumber Company has paid all personal property taxes assessed on the property of the Standard Planing Mill; has paid telephone and water bills and that the Standard Planing Mill has not paid its proportion of such bills to the Routt Lumber Company.

9. That the property and assets of the Standard Planing Mill, a corporation, and the Routt Lumber Company, a corporation, are, in the main, situate on the premises of the Routt Lumber Company, City of Fresno, County of Fresno, and are so intermingled and confused so as to make it impossible at this time to segregate to each corporation what apparently belongs to it.

10. That the Standard Planing Mill is conducting no business operations, and has no employees on the premises to take care of its assets and properties; that the said assets and properties are, at the present time, in the possession of a Sheriff's keeper situate on the premises of the Routt Lumber Company.

11. That the books of the Routt Lumber Company show the following:

(a) That on different dates in January, to-wit: the 3rd, 7th, 8th, 15th and 31st, the Routt Lumber Company, while in an insolvent condition, purchased and received certain shingles, cement, etc., from the Pacific Coast Paper Company, and that it carries these items on its books among its accounts payable; that the Standard Planing Mill lists these same items in its inventory and has them in its possession.

(b) A like situation exists in the purchase from the T. O. Paint Store, Fresno, for certain paints on February 28, 1931.

(c) A like situation exists in the purchase from Tyre Bros. Glass Company, Inc., Fresno, of certain glassware and mirrors on different dates in January, 1931, to-wit: the 10th, 14th, 15th, 16th, 21st, 23rd, 26th and 29th.

(d) A like situation exists in the purchase from Maisler Bros. Lumber Company, Fresno, of certain lumber on February 8, 1931.

(e) A similar situation exists in the purchase on February 7, 1931, from Yosemite Portland Cement Company of 950 sacks of cement.

12. That Leonard Routt, the Vice-President of the Routt Lumber Company, and the Vice-President of the Standard Planing Mill, and Director of both companies, has had access to the books of the Standard Planing Mill, and has, on numerous occasions, examined the books of account and ledgers of the Standard Planing Mill, particularly their accounts receivable; that a great many of the accounts receivable, of the Standard Planing Mill,

have been collected by the Sheriff of the County of Fresno under a Writ of Execution issued in the suit of J. W. Ellis (assignee of Orville Routt) vs. Standard Planing Mill, and applied to his judgment after the examinations made by Leonard Routt as aforesaid.

13. That on numerous occasions the Sheriff of the County of Fresno has endeavored to sell under such Writ of Execution, issued in the case mentioned in the last preceding paragraph, certain personal property of the Standard Planing Mill; that in each instance the sale has been restrained either by this Honorable court or by the Superior Court in the County of Fresno, and at the present time is restrained by the Supreme Court of the State of California; that included in the personal property so attempted to be sold are the items mentioned in the preceding paragraph No. 11 and lettered a. to e.

14. Your affiant, as Receiver of the Routt Lumber Company, prior to the 5th day of June, 1931, made a special examination of the items mentioned in Paragraph 11, subdivisions a. to e. inclusive, in this affidavit; that at such time your affiant stated to one of the attorneys for the petitioning creditors that the books of the Routt Lumber Company did not show any transfer to the Standard Planing Mill of these items, and that the books of the Standard Planing Mill did not show any such transfer. Subsequent to the making of such statement your affiant again examined the books in conjunction with a certified public accountant and discovered that the Routt Lumber Company had transferred these items to the Standard Planing Mill, and showed such transfer in its accounts receivable, and from the books of the Standard Planing

(a) That although since 1928 the Standard Planing Mill has occupied the same office and building as the Routt Lumber Company, each office and building is the property of the Routt Lumber Company, and although the Standard Planing Mill has used the same telephone during such period, yet the Standard Planing Mill has not, during such period, paid anything on account of rent or office expenses to the Routt Lumber Company, nor has it given any credit to the Routt Lumber Company for such use.

(b) That although the Standard Planing Mill had several thousand dollars worth of merchandise on the premises of the Routt Lumber Company, they paid no personal property taxes thereon, but all of such taxes on such personal property were assessed to and paid by the Routt Lumber Company; that the Standard Planing Mill has never paid the Routt Lumber Company for its proportion of such taxes, nor has it credited the Routt Lumber Company with any such proportion.

(c) That the personal property of the Standard Planing Mill mentioned in the next preceding subdivision of this paragraph was insured against fire, etc.; that such insurance was carried in policies payable to "Routt Lumber Company and/or Standard Planing Mill;" that the premiums on such policies of insurance were paid by the Routt Lumber Company; that the Standard Planing Mill never paid the Routt Lumber Company its proportion of such premiums, nor credited the Routt Lumber Company with any such proportion.

4. That the books of the Routt Lumber Company show that it was in an insolvent condition from January, 1931 to date, and indications are that it was insolvent prior to January; that it is highly improbable that such

fact was unknown to the managing officers of such corporation; that while in such insolvent condition the Routt Lumber Company purchased certain materials, which purchases are more specifically set forth in Paragraph 11, in the affidavit of C. W. Krumbholz on file herein; that such materials were sold to the Standard Planing Mill at the same price for which they were purchased; that no commission was charged to the Standard Planing Mill on such purchases; that the Standard Planing Mill has the greater portion of these said items in its inventory; that the managing officers of the Standard Planing Mill, and the managing officers of the Routt Lumber Company, are one and the same, and the insolvent condition of the Routt Lumber Company must of necessity been known to the managing officers of the Standard Planing Mill.

5. That the books of accounts and ledgers of the Routt Lumber Company, and of the Standard Planing Mill, were so closely inter-allied that an examination of the books of one company, without having access to the books of the other company, would, for most practical purposes, be unsatisfactory; that is to say, that in order to trace items transferred by the Routt Lumber Company it is necessary to have access to the books of the Standard Planing Mill and vice versa; that in our opinion, after such examination of the books made as aforesaid, the two companies, although they have kept separate books, are nevertheless one company.

6. That the books of accounts and ledgers of the Routt Lumber Company, and of the Standard Planing Mill, and the entries therein are confusing and misleading, and that it is our opinion that such entries in said books of accounts and ledgers were purposely so entered.

Mill at that time the sum of \$17,000.00 on account of said fire loss.

That the Standard Planing Mill has located in the mountains east of Fresno a saw-mill and that said planing mill has therewith cut and sawed lumber, and it has delivered the same to its yards in the City of Fresno. That it has been its custom to supply the Routt Lumber Company with Lumber from its said stock so delivered into its yards; that affiant was advised by the insurance carrier of the Standard Mill that it would work a saving in insurance premiums to write the insurance in the name of the two companies so that when lumber was sold from said stock by the Standard Mill to the Routt Lumber Company there need be no cancellation of policies or short rate premiums charged and in the event of a fire the inventories of the two companies would be controlling as to whom the loss should be paid. That this is a common practice in the writing of fire insurance where stocks are continuously changing in wholesale quantities. That affiant was further informed by said insurance carrier that this custom is followed to a very considerable extent when it is anticipated that stocks of merchandise shall be sold in quantity.

That at all times the casualty and workmen's compensation insurance of the Routt Lumber Company and of the Standard Planing Mill have been carried by each of said companies separately and distinct from the other, and that the Routt Lumber Company has always maintained its own separate insurance excepting as above noted on the wholesale lumber stock purchased from the Standard Planing Mill.

Leonard W Routt

Subscribed and sworn to before me this 23 day of June, 1931.

[Seal]

Irvine P. Aten

Notary Public in and for said County and State.

[Endorsed]: Filed Jun 26 1931 at 20 min. past 12 o'clock p m R. S. Zimmerman, Clerk F. Betz Deputy

[TITLE OF COURT AND CAUSE.]

State of California)	
)	s s
County of Fresno)	

I, B. F. KNAPP, being first duly sworn on oath, depose and say, that I am the Treasurer of the insurance firm of Shepherd-Knapp-Appleton, Inc:

THAT: On the 15th day of August, 1930, our firm issued in the name of the Routt Lumber Co. and/or Standard Planing Mill, three policies in the Insurance Co. of the State of Pennsylvania, being policies No. 55632-55637 and 55638. I further state that the reason for issuing these policies in the name of the Routt Lumber Co. and/or Standard Planing Mill, was for the purpose of covering stock after having been delivered from the Planing Mill to the Routt Lumber Company, without having to write additional policies or having to cancel on a short rate basis, thereby making a saving to the Standard Planing Mill on their insurance premium. I further state that it is common practice to write policies in the above manner.

Affiant further states that our firm have been for the past several years writing insurance separately for the Standard Planing Mill and the Routt Lumber Co. That on the sixth day of October 1927, policy was issued in the name of Standard Planing Mill in the sum of \$4000.00

covering on Equipment, said coverage being placed in the Liverpool London & Globe Ins. Co., Policy No. 274955. That on or about the 18th day of September 1928, said Standard Planing Mill suffered a loss by fire and that on the 2nd day of October, 1928, our company paid to said Standard Planing Mill the full face of the above policy.

B. F. Knapp
Treas.

Subscribed and sworn to before me this 23rd day of June, 1931
[Seal]

Ruth Thomas
Notary Public

[Endorsed]: Filed Jun 26 1931 at 20 min. past 12 o'clock p m R. S. Zimmerman, Clerk F. Betz Deputy



At a stated term, to wit: The April Term, A.D. 1931, of the District Court of the United States of America, for the Northern Division of the Southern District of California, held at the court room thereof in the City of L. A. on Monday, the 29th day of June, in the year of our Lord one thousand nine hundred and thirty-one.

PRESENT: THE HONORABLE GEO. COSGRAVE
District Judge.

In the Matter of)
)
Routt Lumber Co., a corp.,) No. 2847-H-Bkcy.
Bankrupt,)
)

ON JUNE 22ND, 1931, the Petition of Petitioning Creditors, and of A. Holm, addressed to the Standard Planing Mill, a Corporation, to show cause why the Receivership of Routt Lumber Company should not be

extended so as to include all assets, etc., of Standard Planing Mill having come before the Court; and, after argument thereon, having been ordered to stand submitted forthwith, and points and authorities having been filed on June 22nd, 1931, and the Court having duly considered the matter, it is now by the Court ordered that said extension be granted, and that an exception be noted for the respondent.

[TITLE OF COURT AND CAUSE.]

PETITION OF THE STANDARD PLANING MILL,
A CORPORATION, FOR APPEAL

TO THE HONORABLE THE JUDGES OF THE
UNITED STATES CIRCUIT COURT OF AP-
PEALS FOR THE NINTH CIRCUIT

The STANDARD PLANING MILL, a corporation, feeling aggrieved by the order made and entered in the above entitled cause on the 29th day of June, 1931, extending the receivership of the above named Routt Lumber Company, a corporation unto and over the assets, business and property of petitioner Standard Planing Mill, does hereby appeal from said order to the Circuit Court of Appeals for the Ninth Circuit for the reasons set *for* in the Assignment of Errors filed herewith, and prays that its appeal be allowed and that citation be issued as provided by law, and that a transcript of the records, proceedings and documents upon which said order was based, duly authenticated, be sent to the United States Circuit Court of Appeals for the Ninth Circuit under the rules of such Court in such cases made and provided.

And your petitioner further prays that the proper order relating to the required security to be required of them be made.

Louis E Goodman and
Herman A Bachrack
Attorneys for Appellant.

[Endorsed]: Petition for Appeal. Filed June 27, 1931.
Paul P. O'Brien, Clerk.

A TRUE COPY. ATTEST: JULY 29, 1931.

[Seal]

PAUL P. O'BRIEN, Clerk.
By Frank H Schmid

Deputy Clerk.

[Endorsed]: Filed Jul 27 1931 Paul P. O'Brien, Clerk

[Endorsed]: Filed Aug 3 - 1931 at 50 min. past 4
o'clock p m R. S. Zimmerman, Clerk L B Figg Deputy

[TITLE OF COURT AND CAUSE.]

ASSIGNMENT OF ERRORS.

Now comes the STANDARD PLANING MILL, a corporation, and files the following assignment of errors upon which it will rely for its prosecution of the appeal in the above entitled cause from the order made and entered by this Honorable Court on the 29th day of June, 1931.

FIRST ASSIGNMENT OF ERRORS:

That the United States District Court for the Southern District of California, Northern Division, erred in making its said order of June 29th, 1931 extending the receivership of the bankrupt Routt Lumber Company to include the properties and assets of the Standard Planing Mill.

SECOND ASSIGNMENT OF ERRORS:

That the United States District Court for the Southern District of California, Northern Division, erred in failing to base its said order of June 29th, 1931 on "findings of fact and conclusions of law" and that no findings of fact or conclusions of law were made by said District Court.

THIRD ASSIGNMENT OF ERRORS:

That the United States District Court for the Southern District of California, Northern Division was without jurisdiction to take the properties and assets of petitioner Standard Planing Mill and place the same in the custody, charge and control of the Receiver of the bankrupt Routt Lumber Company.

That the evidence was and is insufficient to justify the court in making its said order of June 29th, 1931.

That the said order was and is against the law.

That the said order was and is against the evidence.

WHEREFORE, appellant prays upon the foregoing assignment of errors and upon the record in said cause, that said decision and order of June 29, 1931, be reversed.

Louis E Goodman and

Herman A Bachrack

Attorneys for Appellant.

(Endorsed) Assignment of Errors. Filed June 27, 1931. Paul P. O'Brien, Clerk.

A TRUE COPY. ATTEST: JULY 29, 1931.

[Seal]

PAUL P. O'BRIEN, Clerk.

By Frank H Schmid

Deputy Clerk.

[Endorsed]: Filed Jul 27 1931 Paul P. O'Brien, Clerk

[Endorsed]: Filed Aug 3 - 1931 at 50 min. past 4 o'clock p m R. S. Zimmerman, Clerk L B Figg Deputy

At a Stated Term, to wit: The October Term A. D. 1931, of the United States Circuit Court of Appeals for the Ninth Circuit, held in the Court Room thereof, in the City and County of San Francisco, in the State of California, on Wednesday the twenty-ninth day of July in the year of our Lord one thousand nine hundred and thirty-one.

PRESENT:

Honorable CURTIS D. WILBUR, Senior Circuit Judge, Presiding,

Honorable WILLIAM H. SAWTELLE, Circuit Judge.

STANDARD PLANING MILL, a Corporation,

Appellant,

vs.

PACIFIC COAST PAPER COMPANY,
PACIFIC PORTLAND CEMENT
COMPANY, SLOSS & BRITAIN and
A. HOLM, as Trustee,

Appellees.

No. 6540

ORDER ALLOWING APPEAL.

Upon consideration of the petition for appeal and the assignment of errors, filed July 27, 1931, by counsel for appellant Standard Planing Mill, a corporation, and good cause therefor appearing,

IT IS ORDERED that an appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the

order of the District Court of the United States for the Southern District of California, Northern Division, entered on the 29th day of June, A.D. 1931, be, and the same hereby is allowed, conditioned upon the giving of a cost bond with good and sufficient security in the sum of two hundred and fifty (250) dollars.

I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of an original Order made and entered in the within-entitled cause.

ATTEST my hand and the Seal of the United States Circuit Court of Appeals for the Ninth Circuit, at the City of San Francisco, in the State of California, this 29th day of July, A. D. 1931

[Seal]

PAUL P. O'BRIEN,
Clerk, U. S. Circuit Court of Appeals for the
Ninth Circuit.

By Frank H Schmid
Deputy Clerk.

[Endorsed]: Filed Aug 3 - 1931 at 50 min. past 4
o'clock p m R. S. Zimmerman, Clerk L B Figg Deputy

Know All Men by These Presents

That we, STANDARD PLANING MILL, a corporation, as principal and Two Hundred Fifty (\$250.00) Dollars in cash, as Surety are held and firmly bound unto Pacific Coast Paper Co., Pacific Portland Cement Co. Sloss & Brittain & A. Holm as Trustee in the full and just sum of Two Hundred Fifty (\$250.00) Dollars to be paid to the said Pacific Coast Paper Co., Pacific Portland Cement Co., Sloss & Brittain & A. Holm as Trustee

its or their attorney, executors, administrators or assigns; to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this thirtieth day of July, in the year of our Lord One Thousand nine Hundred and thirty-one.

WHEREAS, lately at the District Court of the United States for the Southern District of California, Central Division, in a suit depending in said Court, between Pacific Coast Paper Co., et al, petitioners, and Standard Planing Mill, respondent, (in the Routt Lumber Co. bankruptcy matter No. 2847-H.) an order was entered against the said Standard Planing Mill, and the said Standard Planing Mill having obtained from said United States Circuit Court of Appeals an order allowing appeal to reverse the order in the aforesaid suit, and a Citation directed to the said Pacific Coast Paper Co., et al citing and admonishing them to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at San Francisco, in the State of California,

Now, the condition of the above obligation is such that if the said Standard Planing Mill shall prosecute its appeal to effect, and answer all damages and costs if it fails to make its plea good, then the above obligation to be void; else to remain in full force and virtue.

STANDARD PLANING MILL,

By LEONARD W. ROUTT [Seal]
Sec'y

Acknowledged before me the day and year first above written.

(SEAL)

ALBERT ISEN

Notary Public in and for the County of Los Angeles,
State of California.

October 30, 1931.

ORVILLE L. ROUTT states that he is depositing the said sum of Two Hundred Fifty (\$250.00) Dollars cash. This money is exclusively the property of Orville L. Routt and no one else has any claims whatsoever thereto.

ORVILLE L. ROUTT

Subscribed and sworn to before me this 30th day of October, 1931

(SEAL)

ALBERT ISEN

Notary Public in and for the County of Los Angeles,
State of California

[Endorsed]: Filed Oct 30 1931 5 o'clock P M R. S.
Zimmerman, Clerk By L. B. Figg, Deputy

[TITLE OF COURT AND CAUSE.]

PRAECIPE

To the Clerk of Said Court:

Sir:

Please issue following papers and pleadings for preparation of record in appeal of Standard Planing Mill from order of Judge Cosgrave of June 29, 1931:

1. Petition to Extend Receivership, etc. dated June 5, 1931.
2. Order to Show Cause signed by Judge James of June 6, 1931.
3. Affidavit of Leonard W. Routt of June 17, 1931.
4. Affidavit of H. W. Hills of June 17, 1931.
5. Affidavit of Betty Pohl of April 23, 1931.
6. Affidavit of C. W. Krumbholz of June 20, 1931.
7. Affidavit of Oliver M. Weed of June 22, 1931.

8. Reply Affidavit of Leonard W. Routt of June 23, 1931.
9. Affidavit of B. F. Knapp of June 23, 1931.
10. Minute Order of Judge Cosgrave of June 29, 1931.
11. Petition for Injunction dated April 11, 1931.
12. Temporary Restraining Order signed by Judge McCormick—April 13, 1931.
13. Affidavit of M. C. Routt of April 21, 1931.
14. Affidavit of William T. Doyle of April 22, 1931.
15. Affidavit of C. W. Krumbholz of April 22, 1931.
16. Affidavit of W. E. Opie of April 23, 1931.
17. Affidavit of H. W. Hills of April 23, 1931.
18. Affidavit of A. E. Callahan of April 23, 1931.
19. Affidavit of M. D. Bishop of April 24, 1931.
20. Affidavit of Leonard W. Routt of April 23, 1931.
21. Affidavit of M. C. Routt of April 23, 1931.
22. Minute Order of Judge McCormick of April 28, 1931 dissolving Restraining Order.
23. Petition of Standard Planing Mill for Appeal.
24. Assignment of Errors filed by Standard Planing Mill.
25. Order allowing Appeal of Standard Planing Mill.
26. Citation on Appeal of Standard Planing Mill signed by Judge Wilbur.

Herman A Bachrack

Attorney for Standard Planing Mill, Appellant.

[Endorsed]: Received copy of within this 7th day of October 1931 and acknowledge receipt of original William T. Doyle Attorney for Appellee per RS

Filed Oct 19 1931 8:59 AM R. S. Zimmerman, Clerk
By L B Figg Deputy Clerk

[TITLE OF COURT AND CAUSE.]

CLERK'S CERTIFICATE.

I, R. S. Zimmerman, clerk of the United States District Court for the Southern District of California, do hereby certify the foregoing volume containing 75 pages, numbered from 1 to 75 inclusive, to be the Transcript of Record on Appeal in the above entitled cause, as printed by the appellant, and presented to me for comparison and certification, and that the same has been compared and corrected by me and contains a full, true and correct copy of the citation; petition for injunction; temporary restraining order; affidavit of M. C. Routt; affidavit of C. W. Krumbholz; affidavit of William T. Doyle; affidavit of Leonard W. Routt; affidavit of M. D. Bishop; affidavit of A. E. Callahan; affidavit of H. W. Hills; affidavit of W. E. Opie; affidavit of M. C. Routt; minute order dissolving restraining order; petition to extend receivership; order to show cause; affidavit of Leonard W. Routt; affidavit of H. W. Hills; affidavit of Betty Pohl; affidavit of C. W. Krumbholz; affidavit of Oliver M. Weed; reply affidavit of Leonard W. Routt; affidavit of B. F. Knapp; minutes of June 29, 1931; petition for appeal; assignment of errors; order allowing appeal; bond on appeal and praecipe.

I DO FURTHER CERTIFY that the amount paid for printing the foregoing record on appeal is \$ and that said amount has been paid the printer by the appellant herein and a receipted bill is herewith enclosed, also that the fees of the Clerk for comparing, correcting and certifying the foregoing Record on Appeal amount to.....

and that said amount has been paid me by the appellant herein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the District Court of the United States of America, in and for the Southern District of California, Central Division, this..... day of November in the year of Our Lord One Thousand Nine Hundred and Thirty-one, and of our Independence the One Hundred and Fifty-sixth.

R. S. ZIMMERMAN,
Clerk of the District Court of the
United States of America, in and
for the Southern District of
California.

By

Deputy.

